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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/775,019

02/01/2001

David Griffith

027-0001

7486

22120

7590

05/16/2006

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EXAMINER

PASS, NATALIE

ART UNIT

PAPER NUMBER

3626

DATE MAILED: 05/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/775,019

Applicant(s)

GRIFFITH, DAVID

Examiner

Natalie A. Pass

Art Unit

3626

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 May 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: none.
Claim(s) objected to: none.
Claim(s) rejected: 3-15 and 19-24.
Claim(s) withdrawn from consideration: 1,2 and 16-18.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER

Continuation of 7:

i. Applicant argues that the Maury Provisional Patent Application Number 60/206,007, filed on May 19, 2000, and cited in form PTO-892 of Office Action 12092005, fails to contain the information disclosed in the applied passages of Maury, U.S. Patent Application Publication Number 2002/0046064. Examiner respectfully disagrees. Examiner notes that the following attachments to the Maury Provisional Application, for example, disclose the information present in the applied passages: Attachment "A," pages 8 and 14 of 29 show the flow chart disclosed in Figure 6 and discussed in the applied passages; Attachment "B," pages 6 and 7 of 20 show the system disclosed and discussed in the applied passages; Attachments "F" and "G" show the schematic flow chart and system disclosed and discussed in the applied passages. As such, the Examiner considers the Maury provisional application to support the aspects of the disclosure relied upon in the previous rejections (papers number 06212005 and 12092005).

ii. With regard to Applicant's arguments at the paragraph bridging pages 2-3 of the Response after Final Rejection filed 2 May 2006, that the Maury reference, which Applicant admits discloses a "rating model," does not teach an "actuary-manipulable representation of a rating model," Examiner respectfully disagrees. Examiner notes that Maury teaches that "[t]he intended audience for the system of an embodiment of the present invention is the general public. In an aspect of the present invention, the audience for the [invention] includes various affinity groups" (Maury; paragraph [0027]); Examiner assumes that this broad audience can comprise business users such as actuaries. In addition, Examiner interprets Maury's teachings of "[t]he user data is submitted to a knowledge-based management system module and database, which determine a tier corresponding to the user data and return the tier to the rating engine server. The rating engine server returns the requested quote to the presentation server, which displays the quote for the user" (Maury; paragraph [0011]) and "rating engine server 48 provides a rating system which allows a front-end provider to utilize Applicative Real-Time Programming (ART) rating to calculate premiums" (Maury; paragraph [0032]), and "[t]he rating engine server 48 communicates through a socket connection on a pre-defined port number. The communication between the front-end 10 of the system and the rating engine server 48 is implemented in Java. Remote Method Invocation (RMI) is a model of distributed object application and has a RMI server 80 and RMI client 78. A typical server application creates some remote objects, makes references to them accessible, and waits for clients to invoke methods on these remote objects," together with Applicant's teachings at paragraph 2 on page 1 of Applicant's Specification, (e.g. "[w]hen taken together, the calculation sequence, the variables, and the factor tables (or tables of adjustments) make up a rating model. An insurance company will typically have a rating model for each line of insurance it offers") as teaching these limitations.

iii. With regard to Applicant's arguments in paragraph 2 on page 4 of the Response after Final Rejection filed 2 May 2006 that the Maury reference is "directed to a system that would presumably require a relatively high-level of programming expertise for creation and maintenance of a given rating model," Examiner notes that Maury teaches "[t]he system application is written with Cold Fusion, Java, C, C++, Hypertext Markup Language (HTML), and JavaScript. An aspect of the system and method for an embodiment of the present invention is providing the online quoting facility on affinity client websites. The system enables the user to enter data into web pages constructed with Cold Fusion Markup Language (CFML), HTML, and minimal JavaScript" (Maury; paragraphs [0024], [0030]-[0031]). As such, Examiner interprets Maury's teachings of object-oriented programming languages to not require high-level programming expertise, but instead to require minimal programming.

iv. In response to Applicant's argument that the Examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the Applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Continuation of 11. does NOT place the application in condition for allowance because:

i. No amendments have been made to the claims.

ii. Applicant apparently rehashes arguments previously addressed in the Final Office Action (paper number 12092005). In particular, each and every limitation of independent claims 10, 19 and 22 and dependent claims 3-9, 11-15 and 20-21, 23-24 were properly addressed in pages 2-3 of the Final Office Action, and pages 3-10 of the detailed Non-Final Office action, and are incorporated herein.